

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

LEWIS FITZGERALD DYER,

Defendant-Appellee.

UNPUBLISHED

May 22, 2007

No. 266865

Branch Circuit Court

LC No. 05-048264-FH

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

RAYNELLE DONA JOHNSON,

Defendant-Appellee.

No. 266901

Branch Circuit Court

LC No. 05-048268-FH

Before: Hoekstra, P.J., and Fitzgerald and Owens, JJ.

PER CURIAM.

As a result of evidence discovered during a search of their vehicle following a traffic stop, defendants Lewis Dyer and Raynelle Johnson were each charged with one count of possession with intent to deliver marijuana, MCL 333.7401(2)(d)(ii). The prosecution appeals as of right the trial court's order granting defendants' motions to suppress the evidence and dismiss the charges. We reverse and remand.

The following facts were adduced at the suppression hearing. A Michigan Department of State Police trooper stopped an automobile being driven by Johnson, but that had been leased by Dyer, for speeding. Johnson's driver's license was suspended and she was not listed as a driver on the vehicle's rental agreement. After running a LEIN check and discovering that there was also an outstanding warrant for Johnson's arrest, the trooper requested that Johnson step out of the vehicle. When subsequently asked by the trooper if there was anything illegal either on her person or in the vehicle, Johnson indicated that she smoked marijuana and that there was some in her purse, which was still in the vehicle. A subsequent search of the vehicle by the trooper revealed marijuana in Johnson's purse, and a marijuana blunt either in the purse or in close

proximity to the purse in the vehicle's interior. When the trooper later opened the trunk, he detected a strong scent of marijuana. He then secured defendants in separate patrol cars and searched the trunk, where he found approximately 14 pounds of marijuana.

Defendants moved to suppress the evidence discovered in the trunk, arguing that the warrantless search was invalid. The trial court granted defendants' motion, concluding that Johnson consented to a search of her purse, which would include anything in plain view in the immediate vicinity, but that the trooper's search of the trunk exceeded the scope of her consent. The trial court further indicated that Johnson could not validly consent to a search of the entire vehicle because she was not the owner or lessee of the vehicle.

The prosecution frames the issue on appeal as whether Johnson could consent to a search of the entire vehicle. Michigan courts have not addressed the question whether the driver of a rental vehicle, who is not the lessee, may validly consent to a search of the vehicle when the lessee is also present. Because we find the search at issue here valid on other grounds, we need not address this question of first impression.

Although this Court reviews a trial court's factual findings at a suppression hearing for clear error, the ultimate ruling on a motion to suppress is subject to review de novo. *People v Davis*, 250 Mich App 357, 362; 649 NW2d 94 (2002). Under the state and federal constitutions, a search must be reasonable. *People v Goforth*, 222 Mich App 306, 309; 564 NW2d 526 (1997). "Generally, a search conducted without a warrant is unreasonable unless there exists both probable cause and a circumstance establishing an exception to the warrant requirement." *People v Mayes (After Remand)*, 202 Mich App 181, 184; 508 NW2d 161 (1993). Under the automobile exception to the warrant requirement, if a car is readily mobile and probable cause exists to believe it contains contraband, the police are permitted to search the car, its compartments, and any containers within it without a warrant. *Maryland v Dyson*, 527 US 465, 467; 119 S Ct 2013; 144 L Ed 2d 442 (1999); see also *People v Carter*, 194 Mich App 58, 61; 486 NW2d 93 (1992) (if probable cause justifies the search, it justifies the search of every part of the vehicle and any of its contents which might conceal the object sought). Probable cause to search an automobile exists when the facts and circumstances known to the officers would warrant a person of reasonable prudence to believe that evidence of a crime or contraband will be found in a particular place. *Carter, supra*. The determination whether probable cause exists "should be made in a commonsense manner in light of the totality of the circumstances." *People v Garvin*, 235 Mich App 90, 102; 597 NW2d 194 (1999).

On review de novo of the undisputed facts and circumstances, we conclude that the information available to the trooper would warrant a person of reasonable caution to believe that contraband would be found in defendants' vehicle, and that the trooper's search of the vehicle was, therefore, reasonable. *Goforth, supra* at 309; see also *People v Stevens (After Remand)*, 460 Mich 626, 631; 597 NW2d 53 (1999) (the application of constitutional standards to uncontested facts is a question of law subject to review de novo). Although Johnson, during her testimony at the suppression hearing, expressly denied having consented to any search of the car or her purse, it is not disputed that Johnson volunteered that she was in fact carrying marijuana in her purse. Once Johnson stated that her purse contained drugs, the trooper had probable cause to believe that defendant was committing the crime of possession of a controlled substance and that the purse contained evidence of that crime. *Carter, supra* at 61. The trooper could therefore lawfully seize and search the purse. It is further not disputed that the trooper's search of the

purse, which was located on the console of the passenger compartment of the car, resulted in the discovery of marijuana. Once the trooper found marijuana in the passenger compartment of the car, probable cause existed to believe that the car contained other contraband, and thus, to search the entire car, including the trunk. *Id.* The trooper's search of the vehicle's trunk was, therefore, reasonable, and thus constitutionally proper, irrespective of whether valid consent for the search had been obtained. *Goforth, supra.* Indeed, "the fact that (an) officer does not have the state of mind which is hypothecated by the reasons which provide the legal justification for the officer's action does not invalidate the action taken as long as the circumstances, viewed objectively, justify that action. . . . Subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis." *Ohio v Robinette*, 519 US 33, 38; 117 S Ct 417; 136 L.Ed.2d 347 (1996) (citation and internal quotation marks omitted). Consequently, the trial court erred in suppressing the marijuana found in the vehicle and dismissing the charges.

Reversed and remanded for further proceedings. We do not retain jurisdiction.

/s/ Joel P. Hoekstra

/s/ E. Thomas Fitzgerald

/s/ Donald S. Owens